

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
BENJAMIN ASHMORE,

Plaintiff,

-against-

CGI, INC. and CGI FEDERAL INC.,

Defendants.

ANALISA TORRES, District Judge:

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ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 1/17/2020

11 Civ. 8611 (AT)

ORDER

On January 16, 2020, Defendants submitted a letter seeking leave to file a motion to exclude Plaintiff's damages expert, Dr. David L. Crawford, pursuant to *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). Def. Letter, ECF No. 362. Plaintiff filed a letter in opposition. Pl. Letter, ECF No. 363. Having reviewed the parties' letters, Defendants' request is GRANTED.

Although the Court's Individual Practices in Civil Cases require that motions to exclude expert testimony "be made by the deadline for dispositive motions," Individual Practices III(L), Defendants represent that Dr. Crawford's report has been revised significantly since that deadline, and relies on facts and methods of calculation that were not included in the prior report. Def Letter at 2. "In deciding whether a step in an expert's analysis is unreliable, the district court should undertake a rigorous examination of the facts on which the expert relies, the method by which the expert draws an opinion from those facts, and how the expert applies the facts and methods to the case at hand." *Amorgianos v. Nat'l R.R. Passenger Corp.*, 303 F.3d 256, 267 (2d Cir. 2002). If Dr. Crawford's opinion is now based on different facts and a different methodology than it was previously, then preventing Defendants from filing a *Daubert* motion would risk an unreliable opinion being presented to the factfinder.

The Court is mindful, however, that Dr. Crawford's original expert report was served on Defendants in March 2014, and Defendants did not seek to exclude his testimony at that time. Pl. Letter at 1. Accordingly, the arguments in Defendants' motion must be limited to issues raised for the first time by Dr. Crawford's 2019 report.

Is is ORDERED that:

- (1) By **January 31, 2020**, Defendants shall file their motion to exclude the testimony of Dr. Crawford, and a supporting memorandum of law not to exceed 10 pages; and
- (2) By **February 14, 2020**, Plaintiff shall file his opposition, not to exceed 10 pages.

SO ORDERED.

Dated: January 17, 2020
New York, New York



ANALISA TORRES
United States District Judge